

"The answer of Hodges, the mortgagee, to this petition, states, among other reasons in opposition to its prayer, that the property purchased by the petitioner, sold very low, and that, he believes, it could now be sold for more than will satisfy the purchase money, and the amount of the judgment of Speed and Pennington, and, that if this court is disposed to interfere in any way, it should be by setting aside the sale, and putting the property again in the market. But this form of relief, it is understood, the purchasers are opposed to."

"The property was sold to satisfy a mortgage, dated on the 17th May, 1843, under a decree passed upon a bill filed by the mortgagee against the mortgagors, for a foreclosure and sale; and the question is, whether a purchaser at such a sale has a right to insist that all prior incumbrances should be removed, so that he shall receive a clear title, and further, that the right so to insist, continues after the sale has been finally ratified, and the proceeds actually appropriated to the payment of the mortgage debt, by an order of the court."

After an examination of the authorities, cited in argument: *Glenn vs. Clapp*, 11 *Gill & Johns.*, 10; *Brooke vs. Brooke and others*, 12 *Gill & Johns.*, 306; *Bell vs. Brown's adm'r*, 3 *Harris & Johns.*, 484; *Ellicott vs. Ellicott et al.*, 6 *Gill & Johns.*, 35, to show that they did not prevent the strict application of the rule, *caveat emptor*, in the present case, "the sale having been conducted by the trustee in the ordinary way, without any stipulation in regard to the title, other than that which resulted from the decree under which he acted," the Chancellor proceeds :]

THE CHANCELLOR :

If the doctrine contended for by the solicitor for the petitioners be sound, and the court is bound to disencumber the title of all liens, it might sometimes find itself in an embarrassing situation, and unable to do what the purchaser has a right to require. In the case of *Ellicott vs. Ellicott*, already referred to, the court said, the mortgagees who were not made parties to the bill, "were not bound to come in and seek payment under